

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

TODD C. BANK, Individually and on  
Behalf of All Others Similarly Situated,

*Plaintiff,*

-against-

LIFEWATCH INC. and LIFEWATCH SECURITY INC.,  
each doing business as Lifewatch-USA, and  
SAFE HOME SECURITY, INC.,

*Defendants.*

1:15-cv-5708-CBA-VMS

**DECLARATION OF TODD C. BANK**

1. I am the plaintiff in the above-captioned matter, and submit this declaration in response to the Order of this Court dated October 25, 2017 (NEF), which stated, full: “On July 14, 2017, the Honorable Vera M. Scanlon, United States Magistrate Judge, ordered the parties to file a revised proposal for a joint pre-trial order by August 11, 2017. (D.E. # [64] at 1.) More than two months have passed since the deadline, and no proposed order has been filed. Accordingly, the Court ORDERS Plaintiff to SHOW CAUSE, no later than **November 15, 2017**, why it should not dismiss the case for failure to prosecute” (emphasis in original).

2. On November 14, 2017, the parties filed a stipulation (Dkt. No. 68) stating that “Plaintiff wishes to try the case and, notwithstanding the lack of timely filing of a joint pre-trial order, Defendant consents to a trial date being ordered.”

3. On November 15, 2017, the parties filed a joint pre-trial order (Dkt. No. 69).

4. I recognize that the above-described filings do not necessarily constitute a response to the Order to Show Cause, and, therefore, I hereby inform the Court that, due to my work on some other cases that have been taking up an inordinate amount of my time during the past several months, beginning well before the August 11, 2017, due date of the joint pre-trial order, I kept attending to

those other matters while waiting for the pressure of them to subside, at least temporarily, before addressing the joint pre-trial order. Although this is my explanation, I do not consider it to be an excuse in the sense that my failure to timely file the joint pre-trial order was beyond my control. In addition, Joseph Lipari, counsel to Defendants Lifewatch Inc. and Lifewatch Security Inc. (summary judgment having been granted to the other defendants), was not in any part responsible for either the failure to timely file the joint pre-trial order nor the considerable delay in my filing of it.

5. Based upon the foregoing, I do not see a basis for contending that a dismissal would be unfair or improper, and I leave it to the judgment of this Court as to whether the parties' stipulation and the late filing of the joint pre-trial order warrants the continuation of the case.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

*s/ Todd C Bank*  
Todd C. Bank  
Executed on November 15, 2017

**CERTIFICATE OF SERVICE**

I hereby certify that on November 15, 2017, a true and accurate copy of the foregoing document is being filed electronically via the Court's electronic-case-filing (ECF) system. Notice of this filing will be sent to all parties by operation of the Court's ECF system and copies will be mailed to those parties, if any, who are not served via the Court's ECF system.

Dated: November 15, 2017

s/ **Todd C. Bank**

Todd C. Bank